

## **REMARKS**

### **I. INTRODUCTION**

The Office Action mailed April 14, 2008 has been carefully considered. The following remarks are responsive to the arguments for the rejection set forth by the Examiner in the Office Action. Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

### **II. STATUS OF THE CLAIMS**

Claims 1-11 are pending, in which claim 1 is independent.

### **III. SUMMARY OF THE OFFICE ACTION**

In the outstanding Office Action, claims 1-4 and 6-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shimada (US Patent Application Publication No. 2002/0052957) in view of Chang et al. (US Patent 6,134,584), Feigenbaum (US Patent 6,377,974) and Halogen (US Patent 5,887,254); and claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Shimada, Chang, Feigenbaum and Halogen as applied to claim 1, and further in view of Trossen et al. (US Patent Application Publication No. 2004/0111476).

### **IV. ARGUMENTS**

#### **A. Summary:**

The claimed invention recites a method for downloading a file from a server to a mobile terminal including the steps of "monitor[ing] the bandwidth in real time and, as

necessary, causes the downloading to be temporarily suspended” and “verifying that the current time falls within a predetermined time slot.” The cited prior art references, taken singly or in combination, do not disclose, teach, suggest or render obvious those steps. The Examiner asserts that the step of “verifying the bandwidth” is taught by Chang (Office Action, page 4, lines 3-9). Such an assertion is respectfully disagreed. Chang does not disclose the function of monitoring a bandwidth. Instead, col. 6, lines 47-51 of Chang teaches the step of providing an interruption of downloading of a file when the time period chosen by the user reaches its limit. Time limit is not related to the bandwidth of the signal. Thus, Chang does not teach or suggest the step of monitoring the bandwidth of the signal to provide temporary suspension as claimed.

The prior art references also do not disclose, teach or suggest the step of “verifying that the current time falls within a predetermined time slot.” In Shimada, the file is automatically downloaded at a scheduled time set by the user. The Examiner states in the Office Action, page 3 lines 5-9 that the downloading of the file at a scheduled time in Shimada “implicitly means verifying that current time falls within a predetermined time slot.” Such an assertion is respectfully disagreed. Downloading of a file at a scheduled time deals with a specific moment, not a period of time. Also, the downloading in Shimada occurs automatically when the time arrives; the process in Shimada does not perform any verification whether the time is within a time period.

**B. The prior art rejections of claims 1-11 under 35 U.S.C. 103(a):**

Claims 1-4 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada in view of Chang, Feigenbaum and Halogen. Claim 5 is rejected under 35 U.S.C.

103(a) over Shimada in view of Chang, Feigenbaum and Halogen, and further in view of Trossen. The rejections are respectfully traversed for the following reasons.

The claimed invention recites a method for downloading a file from a server to a mobile terminal. The method comprises, among others, the steps of: connecting the mobile terminal to the server via a network; downloading the file from the server to the terminal in a background task; and presentation of the file to the user at the end of the downloading operation. The method also comprises, before the connecting step, verifying that the current time falls within a predetermined time slot; saving partial versions of the file on the mobile terminal in the event of an interruption, and, subsequently, downloading only the missing portion of the file; and monitoring the bandwidth in real time and, as necessary, causing the downloading to be temporarily suspended.

The cited prior art references, taken singly or in combination, do not disclose, teach or suggest the method as recited in the claimed invention, particularly the steps of: monitoring the bandwidth in real time and verifying that the current time falls within a predetermined time slot.

Regarding the step of monitoring the bandwidth in real time, the Office Action states that such a step is taught by Chang, col. 6, lines 47-51 (see Office Action, page 4, lines 4-7 and page 8, paragraph 11). Lines 47-51 in col. 6 of Chang teaches the process of automatic interruption of the downloading of a file when the downloading time exceeds the time limit previously selected by the user. The Examiner alleges that such interruption of downloading “implicitly means the bandwidth is monitored to calculate download time” (see Office Action, page 4, lines 4-7) and that “downloading time is dependent on bandwidth” (see Office Action, page 8, paragraph 11). While the downloading time may depend on the width

of the bandwidth, the Applicants respectfully disagree with the allegation that Chang teaches the step of monitoring the bandwidth in real time. The interruption of the downloading disclosed in col. 6, lines 47-51 of Chang happens automatically when the time is up. Monitoring the bandwidth in real time relates, on the other hand, to accessing and determining how much space is left in the width of a signal band. For example, during off peak hours, the amount of data transmitted through the bandwidth is low, the bandwidth is not overloaded and, thus, the downloading is optimized. Therefore, the interruption process in Chang, which occurs automatically when the time limit is reached, is different from the step of monitoring the bandwidth recited in the claimed invention.

Regarding the step of verifying that the current time falls within a predetermined time slot, the Examiner states in the Office Action that such a limitation is implicitly disclosed in paragraph [0037] of Shimada (see page 3, lines 7-9 of the Office Action). Specifically, paragraph [0037] of Shimada discloses that the "system allows downloading of various contents according to a schedule set by the user or set on the server side." The Examiner asserts on page 3 of the Office Action that "downloading contents according to a schedule implicitly means verifying that the current time falls within a predetermined time slot before downloading begins." The Applicants respectfully disagree with that assertion. Downloading of a file at a scheduled time occurs automatically when the scheduled time arrives. Such a process does not involve the verification of the time. It also relates to one specific moment of time, rather than a time slot as recited in the claimed invention. Thus, the process in Shimada does not have the step of verifying whether the current time is within a predetermined time slot.

Chang teaches a method that allows interruption of the downloading of a file when the user or the storage space reaches its limit. As discussed above, Chang does not teach or suggest the step of monitoring the bandwidth of the time or verifying whether the current time falls within a predetermined time slot.

Halonen teaches a method for updating the software of a mobile terminal interface. In Halonen, a cell phone can download a file in a background task (col. 5, lines 47-50). Halonen, however, does not teach or suggest other steps recited in claim 1, particularly the step of monitoring the bandwidth in real time or whether the current time falls within a predetermined time slot.

Feigenbaum describes a method for downloading a file from a server in which the server has the functionality to resume a download where the data transfer link has been terminated. Feigenbaum does not teach or suggest the steps of monitoring the bandwidth in real time or whether the current time falls within a predetermined time slot.

Trossen teaches the use of second and third generations of mobile telecommunications networks (paragraph [0022]) butt Trossen does not teach or suggest the steps of monitoring the bandwidth in real time or whether the current time falls within a predetermined time slot.

Accordingly, Chang, Halonen, Feigenbaum and Trossen, taken individually or in combination, do not cure the deficiencies of Shimada. For the reasons set forth above, it is respectfully submitted that the rejections fail to establish a prima facie case of obviousness against the invention recited in the claims. Moreover, it appears that the rejections are hindsight reconstructions of the claimed invention.

Dependent claims 2-11 are believed to be allowable over Shimada in view of Chang, Halonen and Feigenbaum for the same reasons. Therefore, it is respectfully requested that the rejections of claims 1-4 and 6-11 under 35 U.S.C. 103(a) as being unpatentable over Shimada in view of Chang, Feigenbaum and Halogen, and claim 5 under 35 U.S.C. 103(a) over Shimada in view of Chang, Feigenbaum and Halogen, and further in view of Trossen be reconsidered and withdrawn.

V. CONCLUSION

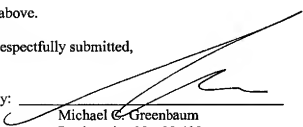
In view of the foregoing discussion and present amendments, it is respectfully submitted that this application is in condition for allowance. An early and favorable action is therefore respectfully requested.

Please charge any shortage of fees or credit any overpayment thereof to BLANK ROME LLP, Deposit Account No. 23-2185 (124543-00101). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this report, Applicant hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized above.

Respectfully submitted,

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By: \_\_\_\_\_

  
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